

ROBERT GILMORE

IBLA 82-677

Decided June 7, 1982

Appeal from decision of Nevada State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. N MC 11089 through N MC 11103.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim -- Mining Claims: Recordation

Where mining claims are located in 1977, the owners were required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), to file a notice of intention to hold the claims or evidence of assessment work performed during 1978, both in the county where the location notices were of record and in the proper office of the Bureau of Land Management. Failure to file the required instruments is conclusively deemed to constitute an abandonment of the claims.

APPEARANCES: Beverly McElvain, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Robert Gilmore appeals the decision of March 29, 1982, wherein the Nevada State Office, Bureau of Land Management (BLM), declared the unpatented Gilmore, Gilmore #1 through Gilmore #12, Gilmore #14, and Gilmore #15 lode mining claims, N MC 11089 through N MC 11103, abandoned and void because no notice of intent to hold the claims or evidence of assessment work was filed with BLM in 1978 as required by 43 CFR 3833.2.

The claims were located during October and November 1977, and were recorded with BLM November 30, 1977. Copies of the proofs of labor, as recorded in Lander County, Nevada, were filed with BLM September 10, 1979, August 22, 1980, and October 22, 1981. The claims are situated in secs.
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and 3, T. 17 N. R. 44 E., and secs. 34 and 35, T. 19 N., R. 44 E., Mount Diablo meridian, Lander County, Nevada, within the Toiyabe National Forest.

Appellant states he thought his claims were on land within the National Park System, and that he had until October 22, 1979, to file his first proof of labor.

[1] Section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), requires that the owner of an unpatented mining claim located on public land after October 21, 1976, must file a copy of the recorded location notice in the proper office of BLM within 90 days after location. Further, section 314 requires that prior to December 31 of each year following the calendar year in which the claims were located, he must file with the proper office of BLM a copy of the recorded proof of labor or notice of intent to hold the claims. Failure to submit any of the instruments required by FLPMA within the prescribed time limits is conclusively deemed to constitute an abandonment of the claims. This Board has no authority to waive noncompliance with the statutory requirements. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

C. Randall Grant, Jr.
Administrative Judge

